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FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

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Mr. FULBRIGHT, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. 2003]

The Committee on Foreign Relations, having considered the same, reports favorably an original bill (S. 2003) to provide certain increases in annuities payable from the Foreign Service retirement and disability fund, and for other purposes, and recommends that the bill do pass.

PURPOSE OF BILL

The main purpose of this bill is to place annuitants of the Foreign Service retirement system on the same basis as civil service annuitants for purposes of computing future cost-of-living increases in annuities. It would also provide retired Foreign Service personnel and their survivors with the same cost-of-living increases already accorded annuitants under the civil service retirement system. The bill would also increase the maximum creditable service toward annuity computation under the Foreign Service retirement system from 35 to 40 years.

PROVISIONS OF THE BILL

The provisions of the bill are summarized as follows:

1. Maximum creditable service toward annuity computation under the Foreign Service retirement system is changed from 35 to 40 years.
2. Future cost-of-living annuity increases will be determined by the same formula now applicable to civil service annuities.
3. The Secretary of State is directed to make a study and submit recommendations to the President and the Congress when the Consumer Price Index decreases by at least 3 percent over a 3-month period.
4. Percentage increases in annuities, in varying amounts, are authorized for annuitants who were on the rolls on January 1, 1967,

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to provide them with essentially the same percentage increases that have been applied to civil service annuities during the past 2 years.

Committee Action

S. 624 was introduced by Senator Fulbright on January 24, 1967, at the request of the executive branch, and referred to the Committee on Foreign Relations. The committee heard testimony on the bill on April 11 from Mr. John M. Steeves, Director General of the Foreign Service, and his associates. At that meeting a number of changes were suggested by committee members. The bill was considered further on April 18 and, on June 22, the committee voted to report a clean bill which incorporated the principle changes proposed by committee members.

Discussion of the Provisions of the Bill

Public Law 89–308, enacted during 1965, authorized cost-of-living increases for Foreign Service annuitants through a formula which delays increases until the cost-of-living index over an entire year has increased by 3 percent over the base period. This was identical to the formula provided for the civil service retirement system in 1962 by Public Law 87–793. Under this formula Foreign Service annuitants who retired before January 2, 1965, received a 4.3 percent annuity increase, effective April 1, 1966. In the meantime, the cost-of-living adjustment formula for the civil service was liberalized by Public Law 89–205. Under this formula an increase in civil service annuities is triggered automatically when the cost of living in each of 3 consecutive months increases by 3 percent or more over the base period. Civil service annuitants were granted a 6.1 percent increase in their annuities under that law, as amended by Public Law 89–314, effective December 1, 1965. The formula has operated so as to provide an additional increase of 3.9 percent for civil service annuitants, effective January 1, 1967, for a total increase of 10 percent in the last 2 years.

Under the provisions of the Foreign Service cost-of-living formula applicable to the Foreign Service retirement system, annuitants of that system are not expected to be eligible for another cost-of-living increase until April 1, 1968. Thus, Foreign Service annuitants whose annuities began before January 2, 1965, are 5.7 percent behind civil service retirees, those whose annuities began between January 2 and December 31, 1965, are 10 percent behind, and those whose annuities began since then are 3.9 percent behind their civil service counterparts. The provisions of this bill would provide percentage increases in annuities, in varying amounts, to annuitants who were on the rolls on January 1, 1967, in order to provide essentially the same percentage increases that have been applied to civil service annuities during the past 2 years. Those who retired prior to January 2, 1965, would receive an increase of 5.7 percent; those who retired from January 2, 1965, through December 31, 1965, a 10-percent increase; and those who retired from January 1, 1966, through January 1, 1967, a 3.9-percent increase. Appropriate increases would also be made in the annuities of survivors of annuitants. These increases will equate the cost-of-living increases provided under the two systems and the formula change to be authorized under the bill will insure that future cost-of-living increases are applicable in the same manner to annuitants under both systems.

The cost estimates for providing these increases, and the impact this bill would have on the Foreign Service retirement fund are as follows:

COST ESTIMATES ON S. 624, AS AMENDED [1]

The first year cost of this Foreign Service annuity increase would be $611,000. This represents an average increase of approximately 6 percent for each Foreign Service annuitant now on the rolls. The breakdown is as follows:

Percentage increase:	*1st-year cost*
5.7	$433,000
10.0	125,000
3.9	53,000
Total, 1st-year cost	611,000

This compares to a first year cost of $67 million for the 3.9 percent civil service annuity increase which became effective January 1, 1967. Increases in the unfunded liability for the two systems are as follows:

	6 percent average Foreign Service annuity increase	3.9 percent Civil Service annuity increase
Increase in unfunded liability	$7,800,000	$739,000,000
Annual interest cost at 4 percent	312,000	29,560,000

The committee bill also provides for appropriate recommendations by the Secretary of State to the President and the Congress in the event the Consumer Price Index falls by at least 3 percent during a 3-month period. This provision requires the Secretary of State to make a study whenever the price index has fallen by 3 percent or more in a quarter to determine if annuities should be adjusted downward to reflect the decrease in the cost of living. The results of his study shall be submitted to both the President and the Congress. It is appropriate that attention should be directed toward possible reduction of annuities, which have been increased as a result of price index changes, whenever the justification for such increases no longer exists.

The cost-of-living provisions of the bill are the same in principle as those contained in S. 3247 passed by the Senate October 5, 1966, but which did not pass the House prior to adjournment of Congress. The basic provisions would implement the following recommendation of the President's Cabinet Committee on Federal Staff Retirement Systems:

C. 4. FOREIGN SERVICE ANNUITY ADJUSTMENTS [2]

Recommendation

The Foreign Service annuity adjustment formula based on changes in the Consumer Price Index should be made identical to the civil service formula. In addition, current

[1] Source: Department of State.
[2] Source: Federal Statutory Salary Systems, message From the President of the United States, H. Doc. 402, 89th Cong., sec. sess., pp. 48–49.

cost-of-living increases should be approved for the Foreign Service comparable to those approved for the civil service under Public Law 89-205, formerly known as the Daniels bill.

Cost estimate

One hundred and thirty-six thousand dollars annually.

Discussion

The Foreign Service Annuity Adjustment Act of 1965, Public Law 89-308 made certain changes with respect to survivor annuities and, in addition, extended to the Foreign Service a cost-of-living annuity adjustment formula. The formula enacted was similar to the formula in the CSR act prior to its amendment by Public Law 89-205. The old formula was enacted because H.R. 4170, which became Public Law 89-308, was drafted long before the Daniels bill was introduced. Because of the legislative logjam that developed in the closing days of the 1st session of the 89th Congress, it would not have been possible to amend H.R. 4170 before adjournment. Rather than delay its passage until the second session, it was passed in its existing form.

This old formula, which delays increases until the cost of living over an entire year has increased by 3 percent over the base period, should be amended to conform to the recently enacted formula for the civil service which provides automatic annuity increases as soon as the cost of living in each of 3 consecutive months increases 3 percent or more over the base period.

Public Law 89-308, applicable to the Foreign Service, will result in an annuity increase effective April 1, 1966, of approximately 4 percent (depending on the average cost-of-living change during 1965) in annuities which commenced prior to January 2, 1965. Public Law 89-205 (formerly known as the Daniels bill) as amended by Public Law 89-314, applicable to the civil service, resulted in a 4.6-percent annuity increase under the revised formula and also provided a supplemental 1.5-percent cost-of-living increase in all annuities which commenced on or before the effective date of the increase. The latter varied from December 1, 1965, to January 1, 1966, depending on the commencing date of the annuity. Public Law 89-205 also authorized an additional 5-percent increase in annuities which commenced prior to October 2, 1956, so that the total increase in such annuities was 11.1 percent. This additional 5-percent increase was granted in recognition of the less favorable formula used to compute CSR annuities prior to October 2, 1956. Since there was no comparable change in the FSR annuity computation formula, this 5-percent increase should not be authorized for Foreign Service annuitants. However, legislation based on the other provisions of Public Law 89-205 should be sought for the Foreign Service in order to provide comparable treatment under CSR and FSR.

We believe that legislation to implement this recommendation should be enacted promptly and that it should not be made a part of an omnibus bill on retirement.

The committee also recommends an increase from 35 to 40 in the maximum years of service creditable toward annuity computation under the Foreign Service retirement system. The present restriction, allowing only 35 years to be included in the annuity computation, has the effect of limiting Foreign Service annuities to a maximum of 70 percent of the high-5 average salary, whereas the maximum applicable to the civil service retirement system is 80 percent.

This provision would implement a recommendation of the President's Cabinet Committee on Federal Staff Retirement Systems that the maximum annuity limitation of 80 percent of the high-five average salary should be applicable to both the civil service and the Foreign Service retirement systems.

The pertinent portion of that report follows:

C. 2. MAXIMUM ANNUITY [3]

Recommendation

The maximum limitation on a foreign service annuity should be raised from 70 to 80 percent of the high-5 average salary.

Cost estimate

Two hundred thousand annually.

Decision

Traditionally, annuity computation formulas have been designed to limit annuities to some fractional part of employees' average salaries. This is entirely appropriate. However, the committee believes that the maximum limitations should be the same, at least as between CSR and FSR.

Sixty percent of average salary for the 10 years preceding retirement was the maximum established under both systems at their inception. Over the last 40 years, both formulas have been liberalized until today the civil service maximum is 80 percent of high-5 average salary and the Foreign Service maximum is 70 percent of high-5 average salary.

The committee recommends that the Foreign Service maximum be increased to 80 percent of the high-5 average salary so that it equates to the civil service maximum.

The committee considered a proposal to establish a minimum annuity of 50 percent of high-5 average salary for Foreign Service personnel retiring with between 20 and 25 years of service. Justification for the proposal is the substantial risk that careers of Foreign Service personnel will be foreshortened either because of the selection-out program or because of the arduous and unhealthful conditions under which some Foreign Service personnel must serve for substantial periods. The proposal would provide a 25-percent increase in annuities for those retiring with 20 years of service. The committee believes that such a large increase would be both unwarranted and too costly and disapproved the proposal.

[3] Source: Federal Statutory Salary Systems, message from the President of the United States, H. Doc. 402, 89th Cong., second sess., pp. 46–47).

The cost estimates for this provision of the bill is as follows:

Estimated cost of increasing from 35 to 40 the maximum number of years creditable toward Foreign Service retirement

1st-year cost	$5,000
Increase in unfunded liability	2,700,000
Level annual cost of benefit: Normal cost plus interest on unfunded liability	200,000

Source: Department of State.

The committee recommends passage of this bill on the simple grounds of doing equity to retired Foreign Service personnel and their survivors. The only reason Foreign Service annuitants were not treated the same as civil service annuitants in 1965, when Congress passed separate bills for cost-of-living adjustments in each system, was because the formula in Public Law 89–308, the Foreign Service Annuity Adjustment Act of 1965, was drafted long before the bill which liberalized the civil service formula was introduced. It was not feasible in the last days of the session to amend the bill to correspond to the civil service bill formula and, rather than delay the bill's passage to the second session, it was passed in its existing form. Foreign Service annuitants were the innocent victims of the legislative logjam at the end of that session and the failure of the House to act on S. 3247, which passed the Senate late last session, made them victims of yet another adjournment logjam. This bill will correct those inequities and do justice to Foreign Service annuitants and their survivors.

Section-by-Section Analysis

Section 2 amends the Foreign Service Act of 1946 to allow 40 years creditable service toward computation of annuities of participants who retire after the enactment of the amendment. The current law limits such creditable service to 35 years.

Section 3 changes the formula for computation of future cost-of-living annuity increases to make it uniform with the formula applicable to the civil service retirement system. This formula guarantees a cost-of-living increase whenever the price index shall have equaled a rise of at least 3 percent for 3 consecutive months over the price index for the base month. The base month, as a takeoff point, is established as October 1966, since this is the "trigger month" for the next cost-of-living increase to civil service annuities. (The Consumer Price Index for August, September, and October 1966 was 113.8, 114.1, and 114.5, respectively. The percentage rise over the CPI for July 1965 (110.2), the base month, was 3.3 percent in August, 3.5 percent in September, and 3.9 in October. Therefore civil service annuities were increased by 3.9 percent effective January 1, 1967, and since October is the "trigger month," it becomes the base month for the next increase.)

Provision is made for the passing on to survivors of annuitants the total percentage increase being received by the annuitant at death, or if the annuitant dies between January 1, 1967, and date of enactment, the survivor would receive the percentage increase the annuitant would have received had he lived until date of enactment. In the case of children survivors, where the annuity commences after January 1, 1967, whether such annuity results from a death in service, or the death of an annuitant, a 10-percent increase is provided plus any further percentage increase which may accrue under the cost-of-living formula. The 10-percent increase is derived from that which is now in effect under the civil service retirement system. For example, the increases of 6.1 and 3.9 percent provided by Public Law 89-205 (effective January 1, 1966, and January 1, 1967) would apply to a child survivor annuity which becomes payable now under the civil service retirement system.

This section also prohibits inclusion of annuity purchased by voluntary contributions from the annuity upon which the increases are calculated.

The adjusted monthly rate would be fixed at the nearest dollar, but the monthly rate would be increased by at least $1. The last clause would apply in a case involving a number of children. One family of 10 children annuitants now receives a total of $1,800 ($180 annually for each child). If an increase is only 3 percent, this would be only 45 cents per month except for this proviso, which would make it $1 per month.

Section 4 requires the Secretary of State to initiate a study whenever the price index has dropped to at least 3 percent in a 3-month period to determine whether annuities should be adjusted to reflect the decrease. He shall report the findings of this study to the President and the Congress along with his recommendations for legislative action, if any.

Section 5(a) authorizes a "catch up" percentage increase to Foreign Service annuitants effective January 1, 1967, who were on the rolls on that date in order to increase their annuities by the percentage currently authorized for civil service annuitants under the cost-of-living formula enacted under Public Law 89-205. The percentage of increase required varies depending upon (1) the type of annuity—whether to a former participant or to a survivor—and (2) the commencing date of the annuity, or in the case of a surviving spouse or a designated beneficiary of an annuitant, the commencing date of the deceased annuitant's annuity.

More specifically, in the case of former participants, and survivors, except children, of participants who died in service, annuities are increased as follows:

(*a*) Those annuities which commenced prior to January 2, 1965, are being increased by 5.7 percent. This figure represents the difference between 10 percent received by civil service annuitants over the last 2 years under Public Law 89-205, and the 4.3 percent applicable to Foreign Service annuities effective April 1, 1966 (if such annuities commenced prior to January 2, 1965).

(*b*) The second group, whose annuities commenced in 1965, would receive a 10-percent increase. As of this date, these annuitants have received no cost-of-living increase while comparable civil service annuitants have received a total of 10 percent.

(*c*) The third group, whose annuities commenced in 1966, would receive a 3.9-percent increase, which is the percentage received by civil service annuitants effective January 1, 1967. The increase resulted from the activation of the civil service cost-of-living formula which automatically became effective because of the price index level for October 1966.

Annuities of survivors, except children, of deceased annuitants are increased in accordance with a schedule designed to equate their annuities to corresponding Civil Service annuities.

Finally, the annuities of all surviving children whose annuities commenced on or before January 1, 1967 would be increased by 5.7 percent, the difference between the 10 percent increase now being received by surviving children under the Civil Service system and the 4.3 percent currently authorized under the Foreign Service system.

Section 5(b) extends to survivors of annuitants (other than children) whose annuities commence after January 1, 1967, the increases authorized under section 6(a)(1) for former participants. Thus, such survivors may have their annuities increased from their commencing date both under this section and under section 882(b) of the Foreign Service Act of 1946, as amended by section 4 of this act. These increases are cumulative and the "catch up" increase would be applied first.

Section 5(c) prohibits increases on any additional annuity purchased at time of retirement by voluntary contributions.

Section 5(d) provides that the adjusted monthly rate shall be increased by at least $1 and that otherwise it shall be fixed at the nearest dollar.

Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FOREIGN SERVICE ACT OF 1946, AS AMENDED

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TITLE VIII—THE FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

Part A—Establishment of System

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Part C—Computation of Annuities

Sec. 821. (a) The annuity of a participant shall be equal to 2 per centum of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the Fund, multiplied by the number of years, not exceeding [thirty-five] *forty*, of service credit obtained in accordance with the provisions of sections 851, 852, and 853. However, the highest five years of service for which full contributions have been made to the Fund shall be used in computing the annuity of any participant who serves as chief of mission and whose continuity of service as such is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted.

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PART J—COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 882. [(a) On the basis of determination made by the Civil Service Commission pursuant to section 18 of the Civil Service Retirement Act, as amended, pertaining to per centum change in the price index, the following adjustments shall be made:

[(1) Effective April 1, 1966, if the change in the price index from 1962 to 1965 shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2, 1965, shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

[(2) Effective April 1 of any year other than 1966 after the price index change shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2 of the preceding year shall be increased the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(b) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:

(1) Effective from the date of the first increase under this section, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 821(c)), which annuity commenced the day after the annuitant's death, shall be increased as provided in subsection (a)(1) or (a)(2) if the commencing date of annuity to the annuitant was earlier than January 2 of the year preceding the first increase.

(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 821(c)), which annuity commences the day after the annuitant's death and after the effective date of the first increase under this section, shall be increased by the total per centum increase the annuitant was receiving under this section at death.

[(3) For purposes of computing an annuity which commences after the effective date of the first increase under this section to a child under section 821(c), the items $600, $720, $1,800, and $2,160 appearing in section 821(c) shall be increased by the total per centum increase allowed and in force under this section and, in case of a deceased annuitant, the items 40 per centum and 50 per centum appearing in section 821(c) shall be increased by the total per centum increase allowed and in force under this section to the annuitant at death. Effective from the date of the first increase under this section, the provisions of this paragraph shall apply as if such first increase were in effect with respect to computation of a child's annuity under section 821(c) which commenced between January 2 of the year preceding the first increase and the effective date of the first increase.

[(c) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

[(d) No increase in annuity provided by this section shall apply to amounts paid under authority of section 5 of Public Law 84–503, as amended, section 4 of the Foreign Service Annuity Adjustment Act of 1965, or any other law authorizing annuity grants to widows.

[(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar.]

(a) Each month after October 1966, the Secretary shall determine the per centum change in the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics. Effective the first day of the third month which begins after the price index shall have equaled a rise of at least 3 per centum for three consecutive months over the price index for the base month, each annuity payable from the Fund which has a commencing date not later than such effective date shall be increased by the per centum rise in the price index (calculated on the highest level of the price index during the three consecutive months) adjusted to the nearest one-tenth of 1 per centum. The month of October 1966 shall be the base month for determining the per centum change in the price index until the next succeeding increase occurs.

(b) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (other than a child under section 821(c)), which annuity commences after January 1, 1967, shall be increased by the total per centum increase the annuitant was receiving under this section at death; or if death occurred between January 1, 1967 and date of enactment, the per centum increase the annuitant would have received;

(2) For purposes of computing an annuity which commences after January 1, 1967 to a child under section 821(c), the items $600, $720, $1,800, and $2,160 appearing in section 821(c) shall be increased by 10 per centum and thereafter by any increases that accrue under section 882(a), as amended, and in case of a deceased annuitant, the items 40 per centum and 50 per centum appearing in section 821(c) (1) and (2) shall be increased by 10 per centum and thereafter by any increases which accrue under section 882(a), as amended, and in force under this section to the annuitant at death.

(c) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(d) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least $1.

SEC. 883. Each month after July 1967 the Secretary shall note any change in the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics. In the event the price index declines to a level which is at least three percent less than the price index for the last month for which the price index showed a percent rise forming the basis for a cost-of-living increase in annuities payable from the Fund, and holds at or below such level for three consecutive months, the Secretary shall make a detailed study to determine whether or not the annuities payable from the Fund should be adjusted to reflect the percentage increase in the price index. In making such study the Secretary shall consider the specific items for which prices decreased, the likelihood of any further consecutive decreases in the price index, the type or types of annuities which should be adjusted, if any, and the extent *of any such adjustment, and all other factors pertinent to whether or not any such annuities should be adjusted. Upon completion of any such study, the Secretary shall transmit to the President and Congress a full report thereon, together with his determination as to whether or not any such annuities should be adjusted and his recommendations for any legislation which he deems to be necessary or appropriate.*

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